

5254

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. HASSELL-THOMPSON -- read twice and ordered printed,
and when printed to be committed to the Committee on Labor

AN ACT to amend the labor law, the general municipal law and the public officers law, in relation to the omnibus prevailing wage enforcement act and to amend chapter 511 of the laws of 1995, relating to establishing a public work enforcement fund and making an appropriation therefor, in relation to moneys accumulated in the public work enforcement fund

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. This act shall be known and may be cited as the "omnibus
2 prevailing wage enforcement act".
3 S 2. The labor law is amended by adding a new section 223-a to read as
4 follows:
5 S 223-A. PREVAILING WAGE FRAUD INSPECTOR GENERAL. 1. DEFINITIONS.
6 FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING DEFINITIONS SHALL APPLY:
7 (A) "INSPECTOR GENERAL" MEANS THE PREVAILING WAGE FRAUD INSPECTOR
8 GENERAL CREATED BY THIS SECTION.
9 (B) "ASSISTANT INSPECTOR GENERAL" MEANS A PREVAILING WAGE FRAUD
10 ASSISTANT INSPECTOR GENERAL CREATED BY THIS SECTION.
11 2. APPOINTMENT, COMPENSATION AND REMOVAL. NOTWITHSTANDING ANY OTHER
12 PROVISION OF LAW, THE GOVERNOR SHALL APPOINT THE INSPECTOR GENERAL. THE
13 BOARD SHALL EMPLOY AND THE GOVERNOR SHALL FIX THE COMPENSATION OF THE
14 INSPECTOR GENERAL. THE INSPECTOR GENERAL SHALL, AND MAY DO SO WITHOUT
15 CIVIL SERVICE EXAMINATION, APPOINT AND THE BOARD SHALL EMPLOY, SUCH
16 ASSISTANT INSPECTOR GENERAL AND OTHER PERSONS AS HE OR SHE DEEMS NECES-
17 SARY, DETERMINE THEIR DUTIES AND FIX THEIR COMPENSATION. SUCH ASSISTANT
18 INSPECTOR GENERAL SHALL ASSIST THE INSPECTOR GENERAL IN CARRYING OUT THE
19 INSPECTOR GENERAL'S DUTIES AND RESPONSIBILITIES AS SET FORTH IN THIS
20 SECTION AND SHALL HAVE SUCH POWERS AS GRANTED THE INSPECTOR GENERAL
21 UNDER THIS SECTION. EMPLOYEES APPOINTED PURSUANT TO THIS SECTION WITH-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 OUT CIVIL SERVICE EXAMINATION SHALL BE PLACED IN THE NONCOMPETITIVE
2 CLASS OF THE COMPETITIVE SERVICE PURSUANT TO SUBDIVISION TWO-A OF
3 SECTION FORTY-TWO OF THE CIVIL SERVICE LAW AND SHALL SERVE AT THE PLEAS-
4 URE OF THE GOVERNOR.

5 3. POWERS, DUTIES AND RESPONSIBILITIES. THE INSPECTOR GENERAL SHALL
6 INVESTIGATE VIOLATIONS OF THE LAWS AND REGULATIONS PERTAINING TO THE
7 OPERATION OF PREVAILING WAGE PROVISIONS. THE INSPECTOR GENERAL SHALL
8 HAVE THE FOLLOWING POWERS, DUTIES AND FUNCTIONS:

9 (A) TO CONDUCT AND SUPERVISE INVESTIGATIONS, WITHIN OR WITHOUT THIS
10 STATE, OF POSSIBLE FRAUD AND OTHER VIOLATIONS OF LAWS, RULES AND REGU-
11 LATIONS PERTAINING TO PREVAILING WAGE PROVISIONS;

12 (B) TO SUBPOENA WITNESSES, ADMINISTER OATHS OR AFFIRMATIONS, TAKE
13 TESTIMONY AND COMPEL THE PRODUCTION OF SUCH BOOKS, PAPERS, RECORDS AND
14 DOCUMENTS AS THE INSPECTOR GENERAL MAY DEEM TO BE RELEVANT TO AN INVES-
15 TIGATION UNDERTAKEN PURSUANT TO THIS SECTION;

16 (C) TO REPORT TO THE ATTORNEY GENERAL OR OTHER APPROPRIATE LAW
17 ENFORCEMENT AGENCY, VIOLATIONS FOUND THROUGH INVESTIGATIONS UNDERTAKEN
18 PURSUANT TO THIS SECTION AND TO PROVIDE SUCH MATERIALS AND ASSISTANCE AS
19 MAY BE NECESSARY OR APPROPRIATE FOR THE SUCCESSFUL INVESTIGATION AND
20 PROSECUTION OF VIOLATIONS OF THIS CHAPTER;

21 (D) TO SUBMIT A WRITTEN REPORT, ON AN ANNUAL BASIS, TO THE GOVERNOR
22 AND TO THE CHAIR OF THE BOARD, LISTING ALL ACTIVITIES UNDERTAKEN TO THE
23 EXTENT SUCH ACTIVITIES CAN BE DISCLOSED PURSUANT TO SUBDIVISION FIVE OF
24 THIS SECTION; AND

25 (E) TO RECOMMEND LEGISLATIVE AND REGULATORY CHANGES TO THE GOVERNOR
26 AND TO THE CHAIR OF THE BOARD.

27 4. COOPERATION OF AGENCY OFFICIALS AND EMPLOYEES. (A) IN ADDITION TO
28 THE AUTHORITY OTHERWISE PROVIDED BY THIS SECTION, THE INSPECTOR GENERAL,
29 IN CARRYING OUT THE PROVISIONS OF THIS SECTION, IS AUTHORIZED:

30 (I) TO HAVE FULL AND UNRESTRICTED ACCESS TO ALL RECORDS, REPORTS,
31 AUDITS, REVIEWS, DOCUMENTS, PAPERS, RECOMMENDATIONS OR OTHER MATERIAL
32 MAINTAINED BY THE BOARD OR ANY OTHER STATE AGENCY RELATING TO PREVAILING
33 WAGE PROVISIONS, WITH RESPECT TO WHICH THE INSPECTOR GENERAL HAS RESPON-
34 SIBILITIES UNDER THIS SECTION; AND

35 (II) TO REQUEST SUCH INFORMATION, ASSISTANCE AND COOPERATION FROM ANY
36 FEDERAL, STATE OR LOCAL GOVERNMENT, DEPARTMENT, BOARD, BUREAU, COMMIS-
37 SION, OR OTHER AGENCY OR UNIT THEREOF AS MAY BE NECESSARY FOR CARRYING
38 OUT THE DUTIES AND RESPONSIBILITIES ENJOINED UPON THE INSPECTOR GENERAL
39 BY THIS SECTION. STATE AND LOCAL AGENCIES OR UNITS THEREOF ARE HEREBY
40 AUTHORIZED AND DIRECTED TO PROVIDE SUCH INFORMATION, ASSISTANCE AND
41 COOPERATION.

42 (B) NO PERSON SHALL PREVENT, SEEK TO PREVENT, INTERFERE WITH, OBSTRUCT
43 OR OTHERWISE HINDER ANY INVESTIGATION BEING CONDUCTED PURSUANT TO THIS
44 SECTION.

45 5. DISCLOSURE OF INFORMATION. THE INSPECTOR GENERAL SHALL NOT PUBLICLY
46 DISCLOSE INFORMATION WHICH IS:

47 (A) A PART OF AN ONGOING INVESTIGATION OR PROSECUTION; OR

48 (B) SPECIFICALLY PROHIBITED FROM DISCLOSURE BY ANY OTHER PROVISION OF
49 LAW.

50 S 3. Sections 1 and 2 of chapter 511 of the laws of 1995, relating to
51 establishing a public work enforcement fund and making an appropriation
52 therefor, as amended by chapter 407 of the laws of 2005, are amended to
53 read as follows:

54 Section 1. The state comptroller shall establish a public work
55 enforcement fund. Each state agency or public benefit corporation enter-
56 ing into a contract for any construction, reconstruction, renovation,

1 repair, maintenance or other improvement, as defined in subdivision 2 of
2 section 220 of the labor law, shall make a transfer of 0.10 of one
3 percent of the total cost of the contract to such fund. All transfers
4 shall be made available to the labor department for labor law enforce-
5 ment. All moneys transferred to and accumulated in the public work
6 enforcement fund shall be dedicated to enforcement of labor law articles
7 8 and 9 and all moneys appropriated from such fund shall be used for
8 such purpose. Provided further that such dedicated funds shall be used
9 for training, labor and related costs for investigators, hearing offi-
10 cers and administrative staff to ensure that staffing levels for such
11 personnel are maintained at [an appropriate level] A LEVEL EQUAL TO OR
12 GREATER THAN THE STAFFING LEVEL FOR SUCH PERSONNEL FOR FISCAL YEAR
13 2006-2007.

14 S 2. The sum of [two million four hundred thousand dollars
15 (\$2,400,000), or so much thereof as may be] MONEYS SO accumulated[,] is
16 hereby appropriated to the department of labor from any moneys credited
17 to the public work enforcement fund created pursuant to section one of
18 this act for the purposes of carrying out the provisions of this act.
19 Such sum shall be payable on the audit and warrant of the state comp-
20 troller on vouchers certified or approved by the commissioner of labor,
21 or his duly designated representative in the manner provided by law. No
22 expenditure shall be made from this appropriation until a certificate of
23 approval of availability shall have been issued by the director of the
24 budget and filed with the state comptroller and a copy filed with the
25 chair of the senate finance committee and the chair of the assembly ways
26 and means committee. Such certificate may be amended from time to time
27 by the director of the budget and a copy of each such amendment shall be
28 filed with the state comptroller, the chair of the senate finance
29 committee and the chair of the assembly ways and means committee.

30 S 4. Section 220 of the labor law is amended by adding a new subdivi-
31 sion 10 to read as follows:

32 10. IN ANY INSTANCE WHERE THE VARIATION BETWEEN THE LOW BID ON ANY
33 PUBLIC WORK CONTRACT OR SUBCONTRACT WITH THE STATE, ANY MUNICIPAL CORPO-
34 RATION OR PUBLIC BODY AND THE NEXT LOWEST BID IS TEN PERCENT OR MORE, OR
35 IS TEN PERCENT LOWER THAN THE CONTRACTING ENTITY'S ESTIMATE OF THE
36 PROJECT COST, THE LOW BIDDER SHALL PROVIDE PROOF TO THE SATISFACTION OF
37 THE CONTRACTING ENTITY THAT THE PREVAILING WAGE SHALL BE PAID, OR SUCH
38 BID SHALL BE REJECTED.

39 S 5. Section 231 of the labor law is amended by adding a new subdivi-
40 sion 8 to read as follows:

41 8. IN ANY INSTANCE WHERE THE VARIATION BETWEEN THE LOW BID ON ANY
42 PUBLIC WORK CONTRACT OR SUBCONTRACT WITH THE STATE, ANY MUNICIPAL CORPO-
43 RATION OR PUBLIC BODY AND THE NEXT LOWEST BID IS TEN PERCENT OR MORE, OR
44 IS TEN PERCENT LOWER THAN THE CONTRACTING ENTITY'S ESTIMATE OF THE
45 PROJECT COST, THE LOW BIDDER SHALL PROVIDE PROOF TO THE SATISFACTION OF
46 THE CONTRACTING ENTITY THAT THE PREVAILING WAGE SHALL BE PAID, OR SUCH
47 BID SHALL BE REJECTED.

48 S 6. Section 220 of the labor law is amended by adding a new subdivi-
49 sion 6-a to read as follows:

50 6-A. THE FISCAL OFFICER SHALL REQUIRE EACH ENGINEER-IN-CHARGE OR OTHER
51 AGENT WHO HAS DIRECT SUPERVISION OF THE EXECUTION OF THE CONTRACT
52 REPRESENTING THE CONTRACTING AGENCY OTHER THAN THE CONTRACTOR OR HIS OR
53 HER EMPLOYEES ON ALL CONTRACTS REQUIRING PREVAILING WAGE RATES TO RECORD
54 A DAILY HEADCOUNT OF ALL WORKERS ON A PROJECT SITE, SEPARATELY ENUMER-
55 ATED REGARDING EACH CLASSIFICATION OF WORKER INCLUDING HOURS WORKED AT
56 REGULAR, OVERTIME OR HOLIDAY PAY AS CLASSIFIED IN THE PREVAILING WAGE

1 RATE SCHEDULE. SUCH RECORDS SHALL BE SUBMITTED TO THE FISCAL OFFICER AND
2 SHALL BE MAINTAINED BY THE FISCAL OFFICER FOR THREE YEARS AFTER THE
3 FINAL ACCEPTANCE OF THE PROJECT. KNOWINGLY PROVIDING THE FISCAL OFFICER
4 WITH FALSE RECORDS SHALL BE A MISDEMEANOR.

5 S 7. Subdivision 1 of section 103 of the general municipal law, as
6 amended by chapter 741 of the laws of 2005, is amended to read as
7 follows:

8 1. Except as otherwise expressly provided by an act of the legislature
9 or by a local law adopted prior to September first, nineteen hundred
10 fifty-three, all contracts for public work involving an expenditure of
11 more than twenty thousand dollars WHICH ARE SUBJECT TO THE PROVISIONS OF
12 ARTICLE EIGHT OF THE LABOR LAW, and all purchase contracts involving an
13 expenditure of more than ten thousand dollars, shall be awarded by the
14 appropriate officer, board or agency of a political subdivision or of
15 any district therein including but not limited to a soil conservation
16 district, to the lowest responsible bidder furnishing the required secu-
17 rity after advertisement for sealed bids in the manner provided by this
18 section. SUCH OFFICER, BOARD, OR AGENCY MAY REQUIRE RESPONSIBLE BIDDERS
19 AND THEIR SUBCONTRACTORS TO PARTICIPATE IN APPRENTICESHIP TRAINING
20 PROGRAMS APPROVED BY THE DEPARTMENT OF LABOR. In any case where a
21 responsible bidder's gross price is reducible by an allowance for the
22 value of used machinery, equipment, apparatus or tools to be traded in
23 by a political subdivision, the gross price shall be reduced by the
24 amount of such allowance, for the purpose of determining the low bid. In
25 cases where two or more responsible bidders furnishing the required
26 security submit identical bids as to price, such officer, board or agen-
27 cy may award the contract to any of such bidders. Such officer, board or
28 agency may, in his, HER or its discretion, reject all bids and readver-
29 tise for new bids in the manner provided by this section. For purposes
30 of this section, "sealed bids", as that term applies to purchase
31 contracts, shall include bids submitted in an electronic format,
32 provided that the governing board of the political subdivision or
33 district, by resolution, has authorized the receipt of bids in such
34 format. Submission in electronic format may not, however, be required as
35 the sole method for the submission of bids. Bids submitted in an elec-
36 tronic format shall be transmitted by bidders to the receiving device
37 designated by the political subdivision or district. Any method used to
38 receive electronic bids shall comply with article three of the state
39 technology law, and any rules and regulations promulgated and guidelines
40 developed thereunder and, at a minimum, must (a) document the time and
41 date of receipt of each bid received electronically; (b) authenticate
42 the identity of the sender; (c) ensure the security of the information
43 transmitted; and (d) ensure the confidentiality of the bid until the
44 time and date established for the opening of bids. The timely submission
45 of an electronic bid in compliance with instructions provided for such
46 submission in the advertisement for bids and/or the specifications shall
47 be the responsibility solely of each bidder or prospective bidder. No
48 political subdivision or district therein shall incur any liability from
49 delays of or interruptions in the receiving device designated for the
50 submission and receipt of electronic bids.

51 S 8. Subdivision 1 of section 103 of the general municipal law, as
52 amended by chapter 413 of the laws of 1991, is amended to read as
53 follows:

54 1. Except as otherwise expressly provided by an act of the legislature
55 or by a local law adopted prior to September first, nineteen hundred
56 fifty-three, all contracts for public work involving an expenditure of

1 more than twenty thousand dollars WHICH ARE SUBJECT TO THE PROVISIONS OF
2 ARTICLE EIGHT OF THE LABOR LAW, and all purchase contracts involving an
3 expenditure of more than ten thousand dollars, shall be awarded by the
4 appropriate officer, board or agency of a political subdivision or of
5 any district therein including but not limited to a soil conservation
6 district, to the lowest responsible bidder furnishing the required secu-
7 rity after advertisement for sealed bids in the manner provided by this
8 section. SUCH OFFICER, BOARD OR AGENCY MAY REQUIRE RESPONSIBLE BIDDERS
9 AND THEIR SUBCONTRACTORS TO PARTICIPATE IN APPRENTICESHIP TRAINING
10 PROGRAMS APPROVED BY THE DEPARTMENT OF LABOR. In any case where a
11 responsible bidder's gross price is reducible by an allowance for the
12 value of used machinery, equipment, apparatus or tools to be traded in
13 by a political subdivision, the gross price shall be reduced by the
14 amount of such allowance, for the purpose of determining the low bid. In
15 cases where two or more responsible bidders furnishing the required
16 security submit identical bids as to price, such officer, board or agen-
17 cy may award the contract to any of such bidders. Such officer, board or
18 agency may, in his, HER or its discretion, reject all bids and readver-
19 tise for new bids in the manner provided by this section.

20 S 9. Section 220 of the labor law is amended by adding a new subdivi-
21 sion 11 to read as follows:

22 11. ALL PUBLIC ENTITIES SUBJECT TO THIS ARTICLE SHALL MAKE AVAILABLE
23 FOR PUBLIC INSPECTION AND COPYING OF THE RECORDS OR PORTIONS THEREOF
24 PERTAINING TO THE NAMES OF, EMPLOYEE CLASSIFICATIONS OF, RATE OF WAGES
25 AND SUPPLEMENTS PAID TO, AND NUMBER OF HOURS WORKED BY THE EMPLOYEES OF
26 CONTRACTORS PERFORMING WORK PURSUANT TO THIS ARTICLE AND ARTICLE NINE OF
27 THIS CHAPTER. THE SOCIAL SECURITY NUMBERS OF SUCH EMPLOYEES MAY BE
28 BLOCKED OUT BY THE AGENCY. AN ENTITY SHALL NOT BE PERMITTED TO DENY
29 ACCESS TO RECORDS OR PORTIONS THEREOF PERTAINING TO THE PAYMENT OF WAGES
30 AND SUPPLEMENTS TO, AND NUMBER OF HOURS WORKED BY, THE EMPLOYEES OF
31 CONTRACTORS SUBJECT TO THIS ARTICLE AND ARTICLE NINE OF THIS CHAPTER.

32 S 10. Section 233 of the labor law is amended by adding a new subdivi-
33 sion 5 to read as follows:

34 5. ALL PUBLIC ENTITIES SUBJECT TO THIS ARTICLE SHALL MAKE AVAILABLE
35 FOR PUBLIC INSPECTION AND COPYING OF THE RECORDS OR PORTIONS THEREOF
36 PERTAINING TO THE NAMES OF, EMPLOYEE CLASSIFICATIONS OF, RATE OF WAGES
37 AND SUPPLEMENTS PAID TO, AND NUMBER OF HOURS WORKED BY THE EMPLOYEES OF
38 CONTRACTORS PERFORMING WORK PURSUANT TO THIS ARTICLE AND ARTICLE EIGHT
39 OF THIS CHAPTER. THE SOCIAL SECURITY NUMBERS OF SUCH EMPLOYEES MAY BE
40 BLOCKED OUT BY THE AGENCY. AN ENTITY SHALL NOT BE PERMITTED TO DENY
41 ACCESS TO RECORDS OR PORTIONS THEREOF PERTAINING TO THE PAYMENT OF WAGES
42 AND SUPPLEMENTS TO, AND NUMBER OF HOURS WORKED BY, THE EMPLOYEES OF
43 CONTRACTORS SUBJECT TO THIS ARTICLE AND ARTICLE EIGHT OF THIS CHAPTER.

44 S 11. Subdivision 2 of section 87 of the public officers law is
45 amended by adding a new paragraph (k) to read as follows:

46 (K) PROVIDED THAT, NOTHING IN THIS SUBDIVISION SHALL PERMIT AN AGENCY
47 TO DENY ACCESS TO RECORDS OR PORTIONS THEREOF PERTAINING TO THE PAYMENT
48 OF WAGES AND SUPPLEMENTS TO, AND NUMBER OF HOURS WORKED BY THE EMPLOYEES
49 OF CONTRACTORS SUBJECT TO ARTICLES EIGHT AND NINE OF THE LABOR LAW. ALL
50 PUBLIC ENTITIES SUBJECT TO THIS ARTICLE SHALL MAKE AVAILABLE FOR PUBLIC
51 INSPECTION AND COPYING OF SUCH RECORDS, THE NAMES OF, EMPLOYEE CLASSI-
52 FICATIONS OF, RATE OF WAGES AND SUPPLEMENTS PAID TO, AND NUMBER OF HOURS
53 WORKED BY THE EMPLOYEES OF CONTRACTORS PERFORMING WORK PURSUANT TO ARTI-
54 CLES EIGHT AND NINE OF THE LABOR LAW. THE SOCIAL SECURITY NUMBERS OF
55 SUCH EMPLOYEES MAY BE BLOCKED OUT BY THE AGENCY.

1 S 12. Paragraph (a) of subdivision 2 of section 89 of the public offi-
2 cers law, as added by chapter 933 of the laws of 1977, is amended to
3 read as follows:

4 (a) The committee on public access to records may promulgate guide-
5 lines regarding deletion of identifying details or withholding of
6 records otherwise available under this article to prevent unwarranted
7 invasions of personal privacy. In the absence of such guidelines, an
8 agency may delete identifying details when it makes records available,
9 PROVIDED HOWEVER, NOTHING IN THIS PARAGRAPH SHALL PERMIT THE DENIAL OF
10 ACCESS TO RECORDS OR PORTIONS THEREOF PERTAINING TO THE PAYMENT OF WAGES
11 AND SUPPLEMENTS TO, AND NUMBER OF HOURS WORKED BY THE EMPLOYEES OF
12 CONTRACTORS SUBJECT TO ARTICLES EIGHT AND NINE OF THE LABOR LAW. ALL
13 PUBLIC ENTITIES SUBJECT TO THIS ARTICLE SHALL MAKE AVAILABLE FOR PUBLIC
14 INSPECTION AND COPYING OF SUCH RECORDS, THE NAMES OF, EMPLOYEE CLASSI-
15 FICATIONS OF, RATE OF WAGES AND SUPPLEMENTS PAID TO, AND NUMBER OF HOURS
16 WORKED BY THE EMPLOYEES OF CONTRACTORS PERFORMING WORK PURSUANT TO ARTI-
17 CLES EIGHT AND NINE OF THE LABOR LAW. THE SOCIAL SECURITY NUMBERS OF
18 SUCH EMPLOYEES MAY BE BLOCKED OUT BY THE AGENCY.

19 S 13. Paragraph (b) of subdivision 2 of section 89 of the public offi-
20 cers law is amended by adding a new subparagraph vii to read as follows:

21 VII. PROVIDED THAT, NOTHING IN THIS PARAGRAPH SHALL PERMIT AN AGENCY
22 TO DENY ACCESS TO RECORDS OR PORTIONS THEREOF PERTAINING TO THE PAYMENT
23 OF WAGES AND SUPPLEMENTS TO, AND NUMBER OF HOURS WORKED BY EMPLOYEES OF
24 CONTRACTORS SUBJECT TO ARTICLES EIGHT AND NINE OF THE LABOR LAW. IT
25 SHALL NOT BE AN UNWARRANTED INVASION OF PERSONAL PRIVACY FOR ALL PUBLIC
26 ENTITIES SUBJECT TO THIS ARTICLE, TO MAKE AVAILABLE FOR PUBLIC
27 INSPECTION AND COPYING, THE RECORDS OF ALL NAMES OF, EMPLOYEE CLASSI-
28 FICATIONS OF, RATE OF WAGES AND SUPPLEMENTS PAID TO, AND NUMBER OF HOURS
29 WORKED BY THE EMPLOYEES OF CONTRACTORS PERFORMING WORK PURSUANT TO ARTI-
30 CLES EIGHT AND NINE OF THE LABOR LAW. THE SOCIAL SECURITY NUMBERS OF
31 SUCH EMPLOYEES MAY BE BLOCKED OUT BY THE AGENCY.

32 S 14. Subdivision 2-a of section 89 of the public officers law, as
33 added by chapter 652 of the laws of 1983, is amended to read as follows:

34 2-a. Nothing in this article shall permit disclosure which constitutes
35 an unwarranted invasion of personal privacy as defined in subdivision
36 two of this section if such disclosure is prohibited under section nine-
37 ty-six of this chapter, PROVIDED HOWEVER, THAT NOTHING IN THIS ARTICLE
38 SHALL PERMIT AN AGENCY TO DENY ACCESS TO RECORDS OR PORTIONS THEREOF
39 PERTAINING TO THE PAYMENT OF RATE OF WAGES AND SUPPLEMENTS TO, AND
40 NUMBER OF HOURS WORKED BY, EMPLOYEES OF CONTRACTORS SUBJECT TO ARTICLES
41 EIGHT AND NINE OF THE LABOR LAW. IT SHALL NOT BE AN UNWARRANTED INVASION
42 OF PERSONAL PRIVACY AS DEFINED IN SUBDIVISION TWO OF THIS SECTION, NOR A
43 PROHIBITED DISCLOSURE UNDER SECTION NINETY-SIX OF THIS CHAPTER FOR ALL
44 PUBLIC ENTITIES SUBJECT TO THIS ARTICLE, TO MAKE AVAILABLE FOR PUBLIC
45 INSPECTION AND COPYING SUCH RECORDS OF ALL NAMES OF, EMPLOYEE CLASSI-
46 FICATIONS OF, RATE OF WAGES AND SUPPLEMENTS PAID TO, AND NUMBER OF HOURS
47 WORKED BY THE EMPLOYEES OF CONTRACTORS PERFORMING WORK PURSUANT TO ARTI-
48 CLES EIGHT AND NINE OF THE LABOR LAW. THE SOCIAL SECURITY NUMBERS OF
49 SUCH EMPLOYEES MAY BE BLOCKED OUT BY THE AGENCY.

50 S 15. Subparagraph (iii) of paragraph a of subdivision 3-a of section
51 220 of the labor law, as amended by chapter 8 of the laws of 2008, is
52 amended to read as follows:

53 (iii) The contractor and every sub-contractor shall keep original
54 payrolls or transcripts thereof, subscribed and sworn to or affirmed by
55 him or her as true under the penalties of perjury, setting forth the
56 names and addresses and showing for each worker, laborer, or mechanic

1 the hours and days worked, the occupations worked, the hourly wage rates
2 paid and the supplements paid or provided. Where the contractor or sub-
3 contractor maintains no regular place of business in New York state and
4 where the amount of the contract is in excess of twenty-five thousand
5 dollars such payrolls shall be kept on the site of the work. All other
6 contractors or sub-contractors shall produce within five days on the
7 site of the work and upon formal order of the commissioner or his or her
8 designated representative such original payrolls or transcripts thereof,
9 subscribed and sworn to or affirmed by him or her as true under the
10 penalties of perjury, as may be deemed necessary to adequately enforce
11 the provisions of this article. Every contractor, and sub-contractor,
12 shall submit to the department of jurisdiction within thirty days after
13 issuance of its first payroll, and every thirty days thereafter, a tran-
14 script of the original payroll record, as provided by this article, AND
15 AT THE COMPLETION OF THE PROJECT A SUMMARY TRANSCRIPT SPECIFYING THE
16 HOURS AND DAYS WORKED BY EACH WORKMAN, LABORER OR MECHANIC, THE TRADE OR
17 OCCUPATION AT WHICH HE OR SHE WORKED, THE HOURLY WAGE RATE PAID, THE
18 SUPPLEMENTS PAID OR PROVIDED TO SUCH EMPLOYEE AND THE NAMES, TAX IDEN-
19 TIFICATION NUMBER AND JOB TITLE OF EACH INDIVIDUAL CLASSIFIED BY THE
20 CONTRACTOR OR SUBCONTRACTOR AS INDEPENDENT CONTRACTORS WHO WERE HIRED
21 AND EMPLOYED BY SUCH CONTRACTOR TO PERFORM WORK SUBJECT TO THE
22 PROVISIONS OF THIS ARTICLE. SUCH SUMMARY TRANSCRIPT SHALL BE subscribed
23 and sworn to or affirmed as true under the penalties of perjury. Any
24 person who wilfully fails to file such payroll records with the depart-
25 ment of jurisdiction shall be guilty of a class E felony. In addition,
26 any person who wilfully fails to file such payroll records within the
27 time specified in this subparagraph shall be subject to a civil penalty
28 of up to one thousand dollars per day. EACH INDEPENDENT CONTRACTOR
29 SHALL HAVE OBTAINED A TAX IDENTIFICATION NUMBER PRIOR TO EMPLOYMENT ON A
30 PROJECT AND SHALL SUBMIT SUCH NUMBER TO THE CONTRACTOR AS REQUIRED BY
31 THE COMMISSIONER.

32 S 16. Subdivision 3-a of section 220 of the labor law is amended by
33 adding a new paragraph f to read as follows:

34 F. WHERE THE CAPITAL CONSTRUCTION COST OF A PUBLIC WORK SUBJECT TO THE
35 PROVISIONS OF THIS SECTION EXCEEDS ONE MILLION DOLLARS, THE DEPARTMENT
36 OF JURISDICTION SHALL CERTIFY THAT THE PROJECT WILL BE AUDITED FROM TIME
37 TO TIME BY THE DEPARTMENT OF LABOR TO ENSURE COMPLIANCE WITH THE
38 PROVISIONS OF THIS ARTICLE. THE DEPARTMENT OF JURISDICTION SHALL INFORM
39 THE DEPARTMENT OF LABOR OF THE PROJECT'S COST AND SHALL ESTABLISH A
40 TIMETABLE FOR AUDIT BY THE DEPARTMENT OF LABOR.

41 S 17. Severability clause. If any clause, sentence, paragraph, subdi-
42 vision, section or part contained in any part of this act shall be
43 adjudged by any court of competent jurisdiction to be invalid, such
44 judgment shall not affect, impair, or invalidate the remainder thereof,
45 but shall be confined in its operation to the clause, sentence, para-
46 graph, subdivision, section or part contained in any part thereof
47 directly involved in the controversy in which such judgment shall have
48 been rendered. It is hereby declared to be the intent of the legislature
49 that this act would have been enacted even if such invalid provisions
50 had not been included herein.

51 S 18. This act shall take effect immediately; provided, however, that:

52 1. Sections four, five, six and fifteen of this act shall take effect
53 on the sixtieth day after they shall have become a law;

54 2. Sections seven and eight of this act shall apply to contracts let
55 on or after such effective date of each section respectively;

1 3. The amendments to subdivision 1 of section 103 of the general
2 municipal law made by section seven of this act shall be subject to the
3 expiration and reversion of such subdivision pursuant to section 41 of
4 chapter 62 of the laws of 2003, as amended, when upon such date the
5 provisions of section eight of this act shall take effect; and

6 4. Sections nine through fourteen of this act shall take effect on the
7 thirtieth day after they shall have become a law.